

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10425 OF 2018

Dagadu Vitthal Shinde and Ors. ... Petitioners

V/s.

State of Maharashtra Thr. GP and Ors. ... Respondents

Mr.Anil Anturkar, Senior Advocate i/b Mr.Ajinkya Mohan Udane a/w Harshvardhan Suryawanshi, for the Petitioner.

Smt. S.S.Bhende, AGP for the Respondent Nos.1, 2, 6 and 7.

Ms Madhavi Ayyapan i/b Talekar & Associates for Respondent No.5.

Ms Vrushali Maindad a/w Ms Shaheen Kapadia, for Respondent Nos.3 and 4.

**CORAM : S.V. GANGAPURWALA &
MADHAV J. JAMDAR, JJ.**

DATED : 23rd AUGUST 2022

PC. :

1. Learned Senior Counsel Shri Anturkar for the Petitioners, submit that the impugned order is passed behind the back of the Petitioners, declaring Respondent No.5 as a senior. The Petitioners possess D.Ed.qualification. The Petitioner Nos.1 to 4, were appointed on 01.06.1990; 01.08.1992; 1.08.1993 and 1.06.1998 respectively, whereas Respondent No.5 was appointed on 6.11.2000. The learned Senior Counsel further submits that in any case, if any order is passed affecting the

rights of the Petitioners, principles of natural justice are required to be adhered to. Notice was not given to the Petitioners nor to the parties to the proceedings wherein Respondent No.5 is declared as senior.

2. Learned Counsel Ms Ayyapan for Respondent No.5, submits that Respondent No.5 is working as a Headmaster since 22/03/2015 and is Senior. The Petitioners acquired D.Ed. qualification in the year 2003. Respondent no.5 was appointed on 06.11.2000.

3. At the first instance, it is to be noted that, Respondent No.2 could not have termed himself as a Court. The Court certainly can not be appointed by executive instructions. It was inappropriate and against the propriety for Respondent no.2 to consider himself as a Court while passing the order. It was only upon executive instructions, it appears power was bestowed upon to Respondent No.2. Hence forth, Respondent No. 2 should bear this in mind.

4. As far as impugned order is concerned, same appears to be the outcome of a dispute between Respondent No.5 and one Mr.Dhadas Narayan Vithoba. In the impugned order, Respondent No.2 has not decided, *inter-se*, seniority between the Petitioners and Respondent No.5. Said order certainly would not be an impediment to the Petitioners to take steps permissible

under the law *qua* seniority nor the impugned order binds the Petitioners.

5. With the aforesaid observations, the petition is disposed of.

(MADHAV J. JAMDAR, J)

(S.V. GANGAPURWALA, J)